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0  
7 Attorneys for Defendant  
DARDEN RESTAURANTS, INC.

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

11 JESUS ALBERTO CACERES, an  
12 individual; CYNTHIA STRAYER, an  
13 individual; MELIDA NOVOA, an  
14 individual; LAURIE COX, an  
15 individual; ALLISON CARROLL, an  
individual; ELIAH LEFFERTS, an  
individual; TONY DUNN, an  
individual; for themselves, and on behalf  
of all others similarly situated.

**Plaintiffs.**

V<sub>1</sub>

18 DARDEN RESTAURANTS, INC., a  
19 Florida corporation, doing business in  
California as RED LOBSTER, and  
DOES 1 through 52, inclusive.

## Defendants

**CV 08-06840 JS**  
Case No.

**DEFENDANT'S NOTICE OF  
REMOVAL OF CIVIL ACTION TO  
FEDERAL COURT PURSUANT TO  
28 U.S.C. §§ 1332, 1441, 1446, AND  
1453**

[Los Angeles County Superior Court  
Case No. BC395043]

Date Filed: September 12, 2008

24    ///  
25    ///  
26    ///  
27    ///

CASE NO.

DEFENDANT'S NOTICE OF REMOVAL OF CIVIL ACTION TO FEDERAL COURT  
PURSUANT TO 28 U.S.C. §§ 1332, 1441, 1446, AND 1453

1                   **TO THE CLERK OF THE COURT, PLAINTIFFS AND THEIR**  
2                   **COUNSEL OF RECORD:**

3                   **PLEASE TAKE NOTICE THAT**, pursuant to 28 U.S.C. §§ 1441, 1446, and  
4 1453, Defendant Darden Restaurants, Inc. (hereinafter “Defendant” or “Darden”)  
5 hereby removes the above-entitled action from the Superior Court of the State of  
6 California for the County of Los Angeles to the United States District Court for the  
7 Central District of California, and in furtherance of this removal avers:

8                   1. On or about September 12, 2008, Plaintiffs Jesus Alberto Caceres,  
9 Cynthia Strayer, Melida Novoa, Laurie Cox, Allison Carroll, Eliah Lefferts, and  
10 Tony Dunn (hereinafter, “Named Plaintiffs”), for themselves and on behalf of all  
11 others similarly situated, filed a Civil Complaint (the “Complaint”) in the Superior  
12 Court of the State of California, County of Los Angeles, entitled Jesus Alberto  
13 Caceres, an individual; Cynthia Strayer, an individual; Melida Novoa, an individual;  
14 Laurie Cox, an individual; Allison Carroll, an individual; Eliah Lefferts, an  
15 individual; and Tony Dunn, an individual; for themselves, and on behalf of all others  
16 similarly situated, Plaintiffs, v. Darden Restaurants, Inc., a Florida corporation, doing  
17 business in California as Red Lobster, and Does 1 through 52, inclusive, Case No.  
18 BC395043.

19                   2. Defendant first received the Summons and Complaint on September 19,  
20 2008, when Defendant’s registered agent for service of process, Corporate Creations,  
21 forwarded a copy after being personally served that day. See Declaration of Paula  
22 Shives in Support of Defendant’s Removal (“Shives Decl.”), ¶2. A true and correct  
23 copy of the Summons and Complaint is attached hereto as Exhibit “A.” Shives  
24 Decl., ¶2.

25                   3. The Complaint asserts claims for the following causes of action: (1)  
26 Unpaid Minimum Wages (pursuant to Labor Code §1194 and Wage Order 5-2001);  
27 (2) Unpaid Meal and Break Periods (pursuant to Industrial Wage Order 5-2001 and

California Labor Code §226.7); (3) Violation of Labor Code §203 (§203 Subclass); and (4) Unfair Business Practices, Business & Professions Code §§ 17200, *et seq.*

4. Jurisdiction Pursuant to the Class Action Fairness Act. This action is one over which this Court has original jurisdiction under 28 U.S.C. §1332 and is one which may be removed by Defendant pursuant to 28 U.S.C. §§ 1441 and 1453, in that the number of potential class members exceeds 100, the parties are citizens of different states, and the amount in controversy exceeds the aggregate value of \$5,000,000.00. Pursuant to the Class Action Fairness Act (“CAFA”), Pub. L. No. 109-2 (enacted Feb. 18, 2005) (codified at 28 U.S.C. §§ 1332(d), 1453, 1711-1715), federal district courts have original jurisdiction over a class action if (1) it involves 100 or more putative class members, (2) any class member is a citizen of a state different from any defendant, and (3) the aggregated controversy exceeds \$5 million. *See* 28 U.S.C. §§ 1332(d)(2) and (d)(6).

5. To the extent this Court would not otherwise have jurisdiction over any claim, it may exercise supplemental jurisdiction over such a claim pursuant to 28 U.S.C. § 1337. See Exxon Mobil Corp. v. Allapattah Services, Inc., 125 S. Ct. 2611, 162 L. Ed. 2d 502 (2005).

6. Defendant is the only named and served defendant in this matter. The consent of any other defendants is therefore inapplicable. In any event, this action may be removed solely by Defendant without the consent of other defendants pursuant to CAFA, 28 U.S.C. § 1433(a).

7. Venue is Proper. The Superior Court of California, Los Angeles County, is located within the Central District of California, Western Division. Therefore, venue for the purposes of removal is proper pursuant to 28 U.S.C. § 84(a) because the Central District of California, Western Division is the “district and division embracing the place where such action is pending.” 28 U.S.C. § 1441(a).

三

1       8. The Size of the Putative Class Exceeds 100. Plaintiff defines the class  
2 as consisting of the following three subclasses: (1) all current and former Darden  
3 employees who worked at Red Lobster as General Managers in California at any  
4 time from July 2004 through the present; (2) all current and former Darden  
5 employees who worked at Red Lobster as Beverage and Hospitality Managers in  
6 California at any time from July 2004 through the present; and (3) all current and  
7 former Darden employees who worked at Red Lobster as Service Managers in  
8 California at any time from July 2004 through the present. (Complaint, ¶ 14).  
9 Plaintiff also seeks to represent a Sub-Class of the Class, consisting of person whose  
10 employment with Darden at Red Lobster ended at any time since July 2004 to the  
11 present. (Complaint, ¶ 15). The Complaint also alleges that the Class includes over  
12 500 current and former employees employed by Darden at its Red Lobster  
13 restaurants as either General Manager, Service Manager, or Beverage and  
14 Hospitality Manager. (Complaint, ¶ 1). Therefore, this action is a class action  
15 pursuant to 28 U.S.C. § 1332(d).

16       9. The Parties Are Diverse. Defendant was, at the time of the filing of this  
17 action, and still is, a Corporation formed under the laws of the State of Florida, with  
18 its principal place of business in Orlando, Florida. (See Shives Decl., ¶ 3). Pursuant  
19 to 28 U.S.C. 1332(c), “a corporation shall be deemed to be a citizen of any State by  
20 which it has been incorporated and of the State where it has its principal place of  
21 business.” Defendant’s principal place of business and of current operations is  
22 located in the state of Florida because its headquarters, and its executive and senior  
23 management personnel, as well as its primary management operations, are located in  
24 Orlando, Florida. (Shives Decl., ¶ 3). Accordingly, Defendant is not a citizen of the  
25 State of California. The Named Plaintiffs are citizens of California and Arizona.  
26 (Complaint, ¶ 2-8). Members of the putative class, who are or were employed in  
27 California, are presumed to be primarily citizens of the State of California. The

1 citizenship of fictitiously-named "Doe" defendants is to be disregarded for the  
 2 purposes of removal. 28 U.S.C. § 1441(a). Accordingly, the diversity of citizenship  
 3 requirements under 28 U.S.C. § 1332(a)(1) are met.

4       10. The Amount In Controversy Exceeds An Aggregate of \$5,000,000.00.

5 In their Prayer for Relief, Named Plaintiffs have specified that the amount in  
 6 controversy is in excess of \$5,000,000. Named Plaintiffs specified the following  
 7 amounts in controversy:

- 8           a. In excess of \$5,000,000, plus interest, for unpaid minimum wage  
               compensation (Complaint, 16:3-4);
- 9           b. In excess of \$7,000,000, plus interest, for unpaid meal and rest break  
               premiums (Complaint, 16:6-7); and
- 10          c. In excess of \$5,000,000, plus interest, for waiting time penalties  
               under Labor Code § 203 for all class members during the applicable  
               limitations period (Complaint, 16:8-10).

11 Thus, the total amount in controversy specified by Named Plaintiffs is \$17,000,000.  
 12 In addition, plaintiff seeks liquidated damages pursuant to Labor Code Section  
 13 1194.2, treble damages pursuant to the Unfair Practices Act, attorney fees, expenses  
 14 and costs pursuant to Labor Code Section 1194, and injunctive relief, which would  
 15 add additional sums to the amount in controversy.

16       11. Requirements of 28 U.S.C. §1446(d) Are Fulfilled. As required by 28  
 17 U.S.C. §1446(d), this Notice is filed within 30 days after any defendant in this matter  
 18 was first served with a copy of the Summons and Complaint.

19       12. As required by 28 U.S.C. §1446(d), Defendants will give notice of this  
 20 removal to Plaintiffs through their attorneys of record.

21       13. As required by 28 U.S.C. §1446(d), a copy of this Notice will be filed  
 22 with the Superior Court of the State of California in and for the County of Los  
 23 Angeles.

14. In the event this Court has a question regarding the propriety of this Notice of Removal, Defendant requests that it issue an Order to Show Cause so that it may have an opportunity to more fully brief the basis for this removal.

Accordingly, Defendant removes the above-entitled action to this Court

DATED: October 17, 2008

OGLETREE, DEAKINS, NASH, SMOAK  
& STEWART, P.C.

By:

Beth A. Gunn  
Attorneys for Defendant  
DARDEN RESTAURANTS, INC.

## **EXHIBIT A**

09/12/2008 16:14 2136253244

LASC

PAGE 02/03

09/12/2008 15:15 18055600506

LAUREN JOHN UDDEN

PAGE 02/04

**SUMMONS**  
(CITACION JUDICIAL)

**NOTICE TO DEFENDANT:**  
(AVISO AL DEMANDADO):

Darden Restaurants, Inc., a Florida Corporation, doing business in California, as Red Lobster, and Docs 1 through 52

**YOU ARE BEING SUED BY PLAINTIFF:**

(LO ESTÁ DEMANDANDO EL DEMANDANTE):

Jesus Alberto Caceres, an individual; Cyathia Strayer, an individual; Melida Novoa, an individual; Laurie Cox, an individual; Additional Parties Attachment Form is Attached

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), or by contacting your local court or county bar association.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de los Tribunales de California ([www.courtinfo.ca.gov/selfhelp/espanol/](http://www.courtinfo.ca.gov/selfhelp/espanol/)), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la copia de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que hable a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), en el Centro de Ayuda de los Tribunales de California, ([www.courtinfo.ca.gov/selfhelp/espanol/](http://www.courtinfo.ca.gov/selfhelp/espanol/)) o poniéndose en contacto con la corte o el colegio de abogados locales.

The name and address of the court is:

(El nombre y dirección de la corte es):

Los Angeles Superior Court - Central District; 111 North Hill Street, Los Angeles, California, 90021

CASE NUMBER:  
(Número del Caso):

BC395043

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:  
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):  
Lauren J. Udden, Esq., The Law Offices Of Lauren J. Udden, 15 West Carrillo Street, Suite 209, Santa Barbara, California 93101; tel: 805-879-7544; fax: 805-560-0506

DATE:

(Fecha):

Clerk by  
(Secretario)

NANCY ALVAREZ

, Deputy  
(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (Form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons (POS-010)).

**NOTICE TO THE PERSON SERVED:** You are served

1.  as an individual defendant.
2.  as the person sued under the fictitious name of (specify):

3.  on behalf of (specify): Darden Restaurants, Inc., a Florida Corporation, doing business in California, as Red Lobster under:
 

<input checked="" type="checkbox"/> CCP 416.10 (corporation)	<input type="checkbox"/> CCP 416.60 (minor)
<input type="checkbox"/> CCP 416.20 (defunct corporation)	<input type="checkbox"/> CCP 416.70 (conservator)
<input type="checkbox"/> CCP 416.40 (association or partnership)	<input type="checkbox"/> CCP 416.90 (authorized person)
<input type="checkbox"/> other (specify):	
4.  by personal delivery on (date):

**SUMMONS**  
**(CITACION JUDICIAL)**

SUM-100

FOR COURT USE ONLY  
(SOLO PARA USO DE LA CORTE)

## NOTICE TO DEFENDANT:

(AVISO AL DEMANDADO):

Darden Restaurants, Inc., a Florida Corporation, doing business in California, as Red Lobster, and Does 1 through 52

## YOU ARE BEING SUED BY PLAINTIFF:

(LO ESTÁ DEMANDANDO EL DEMANDANTE):

Jesus Alberto Caceres, an Individual; Cynthia Strayer, an individual; Melida Novoa, an individual; Laurie Cox, an individual; Additional Parties Attachment Form is Attached

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

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Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), en el Centro de Ayuda de las Cortes de California, ([www.courtinfo.ca.gov/selfhelp/espanol](http://www.courtinfo.ca.gov/selfhelp/espanol)) o poniéndose en contacto con la corte o el colegio de abogados locales.

The name and address of the court is:

(El nombre y dirección de la corte es):

Los Angeles Superior Court - Central District; 111 North Hill Street, Los Angeles, California, 90021

CASE NUMBER  
(Número del Caso)

BC395043

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

Lauren J. Udden, Esq., The Law Offices Of Lauren J. Udden, 15 West Carrillo Street, Suite 209, Santa Barbara, California 93101; tel: 805-879-7544; fax: 805-560-0506

DATE:  
(Fecha)Clerk, by \_\_\_\_\_ Deputy  
(Secretario) (Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

NOTICE TO THE PERSON SERVED: You are served



1.  as an individual defendant.
2.  as the person sued under the fictitious name of (specify):

3.  on behalf of (specify):

under:

<input type="checkbox"/> CCP 416.10 (corporation)	<input type="checkbox"/> CCP 416.60 (minor)
<input type="checkbox"/> CCP 416.20 (defunct corporation)	<input type="checkbox"/> CCP 416.70 (conservatee)
<input type="checkbox"/> CCP 416.40 (association or partnership)	<input type="checkbox"/> CCP 416.90 (authorized person)
<input type="checkbox"/> other (specify):	

4.  by personal delivery on (date):

SUM-200(A)

SHORT TITLE: Jesus Alberto, et al v. Darden Restaurants	CASE NUMBER: BC395043
--	--------------------------

## INSTRUCTIONS FOR USE

- This form may be used as an attachment to any summons if space does not permit the listing of all parties on the summons.
- If this attachment is used, insert the following statement in the plaintiff or defendant box on the summons: "Additional Parties Attachment form is attached."

List additional parties (Check only one box. Use a separate page for each type of party.):

Plaintiff  Defendant  Cross-Complainant  Cross-Defendant

Allison Carroll an individual; Elijah Lefferts, an individual; Tony Dunn, an individual; for themselves and on behalf of all others similarly situated.

Page 1 of 1

Page 1 of 1

07/24/2008 12:20 180556005

LAUREN JOHN UDDEN

PAGE 08/23

THE LAW OFFICE OF  
GARRY M. TETALMAN  
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Lauren J. Udden (#083118)  
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Santa Barbara, CA 93101  
Telephone: (805) 879-7544  
Facsimile: (805) 560-0506

Attorneys for Plaintiff:

**SUPERIOR COURT IN THE STATE OF CALIFORNIA  
FOR THE COUNTY OF LOS ANGELES - CENTRAL DISTRICT**

JESUS ALBERTO CACERES, an individual; CYNTHIA STRAYER, an individual; MELIDA NOVOA, an individual; LAURIE COX, an individual; ALLISON CARROLL, an individual; ELIAH LEFFERTS, an individual; TONY DUNN, an individual; for themselves, and on behalf of all others similarly situated.

**Plaintiff.**

15

DARDEN RESTAURANTS, INC., a Florida corporation, doing business in California as RED LOBSTER, and DOES 1 through 52, inclusive.

**Defendants.**

**Case No.**

BC395043

## CLASS ACTION

**COMPLAINT FOR:**

1. Unpaid Minimum Wages (pursuant to Labor Code §1194 and Wage Order S-2001);
2. Unpaid Meal and Break Periods (pursuant to Industrial Wage Order S-2001 and California *Labor Code* §226.7);
3. Violation of Labor Code §203 (§203 Subclass), and
4. Unfair Business Practices, Business & Professions Code, §817.010, et seq.

**COMPLAINT - CLASS ACTION**

LAJ/CLP: B725941:LEW/PEFH:  
RECD/PF # 8CH1873036  
DATE PAID: 07/24/98 03:10:49 PM  
PAYMENT: \$28.00

07/24/2008 12:20 188556005

LAUREN JOHN UDDEN

PAGE 09/23

1 Plaintiffs JESUS ALBERTO CACERES, TONY DUNN, CYNTHIA STRAYER, MELIDA  
 2 NOVOA, LAURIE COX, ELIAH LEFFERTS and ALLISON CARROLL, for themselves, and on  
 3 behalf of all others similarly situated ("Plaintiffs"), allege as follows:

4 **GENERAL ALLEGATIONS**

5 1. At all times herein mentioned, Defendant DARDEN RESTAURANTS, INC.,  
 6 ("Defendant" or "DRI"), was, and is, a Florida corporation duly authorized to do, and doing,  
 7 business in the State of California as RED LOBSTER RESTAURANTS ("RL") with employees  
 8 performing services throughout the State of California, including the County of Los Angeles. DRI  
 9 is the parent company and/or owner of RL, a seafood chain restaurant specializing in serving fresh  
 10 seafood with over 40 locations throughout the State of California, including Los Angeles County.  
 11 Plaintiffs believe and based thereon allege that DRI employs currently at its RL California-based  
 12 locations, approximately at least 50 individuals working under the job titles of General Manager,  
 13 at least 100 individuals working under the title Service Manager, at least 100 individuals working  
 14 under the title Beverage and Hospitality Manager, and at least 100 individuals working under the  
 15 title Culinary Manager who were not given an uninterrupted thirty (30) minute meal break for every  
 16 six hours worked and an uninterrupted ten (10) minute rest break for every four hours worked in  
 17 accordance with California laws and regulations. Plaintiffs believe and based thereon, allege that  
 18 the Class includes over 500 current and former employees employed by DRI at its RL restaurants  
 19 as either a General Manager, Service Manager or Beverage and Hospitality Manager who did not  
 20 receive their proper rest and meal breaks in accordance with California law regulations. Moreover,  
 21 General Managers were required to travel on numerous occasions throughout the year to attend  
 22 management meetings throughout the United States and were required to travel on their "days off"  
 23 and were not compensated for either travel to and from these meetings nor attending these meetings.

24 2. At all times herein mentioned, Plaintiff JESUS ALBERTO CACERES  
 25 ("CACERES") was and is a resident of the City of Oxnard, State of California. Plaintiff was  
 26 employed by DRI from August 1993 to April 2008, spending the last seven years of his employment  
 27 at the DRI's RL location in Oxnard, California. From 2004, until his termination in April 2008,  
 28 CACERES was the General Manager of the Oxnard RL.

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LAUREN JOHN LIDDE

PAGE 18/23

1       3. At all times herein mentioned, Plaintiff TONY DUNN ("DUNN") was and is a  
 2 resident of the City of Camarillo, State of California. Plaintiff was employed by DRI from October  
 3 11, 2002 to April 9, 2008, spending the majority of his time at DRI's RL location in Canoga Park,  
 4 California. At the time of DUNN's termination, he was the General Manager of the Canoga Park,  
 5 California RL location.

6       4. At all times herein mentioned, Plaintiff LAURIE SUE COX ("COX") was and is a  
 7 resident of Port Hueneme, State of California. Plaintiff was employed by DRI from February 5,  
 8 2007 to April 6, 2008, spending her first thirteen weeks of employment at DRI's RL location in  
 9 Salinas, California before being transferred to DRI's RL location in Oxnard, California. During  
 10 COX'S employment tenure at the RL location in Oxnard, California, she was the Beverage and  
 11 Hospitality Manager.

12       5. Plaintiff CYNTHIA STRAYER ("STRAYER") is currently a resident of Phoenix,  
 13 State of Arizona. At all times relevant mentioned here, STRAYER was a resident of Port  
 14 Hueneme, State of California. Since September 1981, STRAYER had been employed with DRI  
 15 in various RL locations throughout Arizona and California. In June 2006, STRAYER transferred  
 16 to the RL located in Oxnard, State of California. During STRAYER'S employment with RL in  
 17 Oxnard, California, she was a Culinary Manager.

18       6. At all times herein mentioned, Plaintiff ALLISON CARROLL ("CARROLL") was  
 19 and is a resident of Ventura, State of California. Plaintiff was employed by DRI from August 2,  
 20 2004 to April 6, 2008, spending her entire employment tenure at DRI's RL location in Oxnard,  
 21 California. At the time of her termination, CARROLL was a Service Manager.

22       7. At all times herein mentioned, Plaintiff MELIDA NOVOA ("NOVOA") was and  
 23 is a resident of Port Hueneme, State of California. Plaintiff was by DRI from March 6, 2007 to  
 24 April 7, 2008, spending her entire career at DRI's RL location in Oxnard, California as a Service  
 25 Manager.

26       8. At all times herein mentioned, Plaintiff ELIAH LEFFERTS ("LEFFERTS") was and  
 27 is a resident of Santa Paula, State of California. Plaintiff was employed by DRI from May 22, 2006  
 28 to April 6, 2008, spending his tenure at DRI's RL location in Canoga Park, California. At the time

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LAUREN JOHN UDDE

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1 of his termination, Plaintiff was a Service Manager.

2 9. Collectively, CACERES, DUNN, COX, STRAYER, CARROLL, NOVOA, and  
 3 LEFFERTS are hereinafter referred to as Plaintiffs.

4 10. The true names and capacities, whether individual, corporate, associate, or otherwise,  
 5 of defendants sued herein as DOES 1 through 52, inclusive, are currently unknown to Plaintiffs,  
 6 who therefore sue defendants by such fictitious names. Plaintiffs are informed and believe, and  
 7 based thereon allege, that each of the defendants designated herein as a DOE is legally responsible  
 8 in some manner for the events and happenings referred to herein and caused injury and damage  
 9 proximately thereby to Plaintiffs as hereinafter alleged. Plaintiffs will seek leave of Court to amend  
 10 this Complaint to reflect the true names and capacities of the defendants designated hereinafter as  
 11 DOES when the same have been fully ascertained.

12 11. Whenever in the Complaint reference is made to "defendants, and each of them"  
 13 such allegations shall be deemed to mean the acts of defendants acting individually, jointly, and/or  
 14 severally.

15 12. Plaintiffs are informed and believe, and based thereon allege, that at all times  
 16 mentioned herein, each of the defendants was the agent, servant, employee, co-venturer, and co-  
 17 conspirator of each of the remaining defendants, and was at all times herein mentioned, acting  
 18 within the course, scope, purpose, consent, knowledge, ratification, and authorization for such  
 19 agency, employment, joint venture and conspiracy.

20 13. This action is also brought by the Class for unpaid minimum wage compensation  
 21 pursuant to California Labor Code Section 1194 and Wage Order No. 5.

22 14. This action is brought pursuant to California *Code of Civil Procedure*, Section 382  
 23 on behalf of three classes. Class A is composed of all current and former DRI employees who  
 24 worked at RL as General Managers in California at any time from July 2004 through the present  
 25 time. Class B is composed of all current and former DRI employees who worked at RL as Beverage  
 26 and Hospitality Managers in California at any time from July 2004 through the present time. Class  
 27 C is composed of all current and former DRI employees who worked at RL as Service Managers  
 28 in California at any time from July 2004 through the present time. (Classes A, B and C are

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1 collectively referred to as the "Class.") Plaintiffs also challenge the business practices of DRI and  
 2 seek compensation on behalf of terminated and current employees of DRI and the general public  
 3 pursuant to California Business and Professions Code, Sections 17000, *et seq.* and 17200, *et seq.*

4 15. This action is also brought by Plaintiffs on behalf of a Sub-Class of the Class,  
 5 consisting of persons whose employment with DRI whose employment at RL ended at any time  
 6 since July 2004, for 30 days waiting time penalties pursuant to California Labor Code, Section 203  
 7 (the "203 Sub-Class").

8 16. The members of the Class and Sub-Classes are so numerous that the joinder of all  
 9 members would be impractical and the disposition of their claims in a class action rather than in  
 10 individual actions will benefit the parties and the Court. The individual damages suffered by Class  
 11 Members are relatively small in comparison so that individual actions or individual remedies are  
 12 impracticable. There is a well-defined community of interest in the questions of law and fact  
 13 affecting the Plaintiff class in that the legal questions of violation of the California Labor Code, the  
 14 California Business and Professions Code, Section 17000, *et seq.*, ("Unfair Practices Act"), and  
 15 the California Industrial Welfare Commission Wage Order No. 4, are common to the Class and  
 16 Sub-Classes.

17. 17. The questions of law and fact common to all members of the Class and Sub-Classes  
 18 predominate over any questions affecting only individual members and a class action is superior  
 19 to any other available method for the fair and efficient way of this controversy.

20 18. A representative action pursuant to California Business and Professions Code,  
 21 Section 17000, *et seq.*, on behalf of the general public is appropriate and necessary because the trade  
 22 practices of DRI as alleged herein violated California law. Plaintiffs also request pursuant to the  
 23 Unfair Practices Act that this Court exercise its ancillary jurisdiction over the sums unlawfully  
 24 retained by DRI as a result of the conduct alleged herein and order disgorgement of unpaid residuals  
 25 to all affected class members.

#### STATEMENT OF FACTS

26 19. Allegations and other factual contentions stated "on information and belief" are  
 27 likely to have evidentiary support after Plaintiffs are afforded a reasonable opportunity for further

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1 investigation and discovery.

2 20. Plaintiffs CACERES and DUNN were employed as General Managers working at  
 3 DRI'S RL stores in California location in Oxnard and Canoga Park, respectively. Although they  
 4 worked at different restaurant locations, their job duties, hours worked and responsibilities were  
 5 strikingly similar. As General Managers, CACERES and DUNN were regularly scheduled to work  
 6 at least ten hours a day, often six days a week. On certain occasions, Plaintiffs CACERES and  
 7 DUNN worked as much as 15 hours per day, and this does not include the time spent working from  
 8 home. Although CACERES and DUNN worked in different locations, their duties as General  
 9 Managers were very similar. These duties included maintaining the appearance of the restaurant,  
 10 setting sales goals in training restaurant staff so that those goals could be met, tracking inventory  
 11 and anticipated need for inventory so that the restaurant was fully stocked and supplies were ordered  
 12 in a timely fashion, conferred with suppliers and making sure restaurant promotions were accurately  
 13 followed and ensuring that company recipes were followed for all food items served to customers.  
 14 Moreover, CACERES and DUNN were also responsible for hiring, interviewing, reviewing sales  
 15 reports, guest counts, labor costs, and reviewing training programs to receive new information and  
 16 to increase their level of performance in all areas. Besides these managerial duties, CACERES and  
 17 DUNN were also responsible for ensuring good customer service which often meant that they spent  
 18 a good deal of time waiting on tables, cooking and/or cleaning. Further, CACERES and DUNN  
 19 were required to attend numerous conferences, regional meetings and seminars throughout the  
 20 United States and were not compensated for their time. Specifically, CACERES and DUNN are  
 21 informed and believe, and based thereon allege, that RL would insist that travel time to and from  
 22 these meetings be done on the General Manager's "day off" and therefore would not compensate  
 23 CACERES, DUNN and the rest of the Class for their travel time. Moreover, once at the meetings,  
 24 the General Managers were still not compensated for this time.

25 21. As General Managers, CACERES and DUNN were the only employees not  
 26 expected to clock in and out for breaks, which was a change in RL policy that occurred after a  
 27 previous lawsuit for missed meal and rest breaks was settled in California in 2003. Although  
 28 CACERES and DUNN were not expected to clock out for these breaks, in reality, due to the

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1 constant demands and pressure that is placed on the entire management staff at RL, taking either  
 2 a ten minute uninterrupted rest break for every four hours worked and/or a thirty minute  
 3 uninterrupted meal break for every six hours each day hardly ever occurred.

4 22. Plaintiff COX was employed as a Beverage and Hospitality Manager at DRI'S RL  
 5 location in Oxnard, California. As the Beverage and Hospitality Manager, COX was required to  
 6 work at least fifty (50) hours each week. Her primary duties as a Beverage and Hospitality Manager  
 7 included managing the bar and host staff, ensure proper inventory and supply in the bar, check all  
 8 daily reports on sales, and train staff to follow proper RL beverage recipes. Moreover, just like the  
 9 General Managers, COX was responsible for making sure that all customers were treated properly.  
 10 This included seating customers, waiting on tables, delivering orders, and cleaning.

11 23. COX, as the Beverage and Hospitality Manager, was required to clock in and out for  
 12 her breaks, although in reality, she hardly ever took a proper uninterrupted rest or meal break. Since  
 13 it was corporate policy for managers to clock in and out for all breaks, and in reality breaks were  
 14 hardly ever taken, COX, like all other managers (regardless of what specific management title they  
 15 held with the exception of General Manager,) would at the end of the day edit her time card so that  
 16 she would not be written up later for a "break violation," which often happened for managers. It  
 17 was regular custom and practice for all managers to edit their time cards to avoid being written up  
 18 or to have to explain how busy the restaurant had been to the District Manager.

19 24. Plaintiffs CARROLL, NOVOA and LEFFERTS were all employed as Service  
 20 Managers working at DRI'S RL stores in California location in Oxnard and Canoga Park,  
 21 respectively. Just like all of the other Managers, although they worked at different restaurant  
 22 locations, their job duties, hours worked and responsibilities were strikingly similar. As Service  
 23 Managers, CARROLL, NOVOA and LEFFERTS were regularly scheduled to work at least ten  
 24 hours a day, five to sometimes six days a week. Pursuant to RL's management policy, Service  
 25 Managers were to work approximately nine and one half hours each work day and take a thirty  
 26 minute meal break so that the daily hours worked would equal ten total hours. In reality, based on  
 27 how the restaurant was run and the staffing levels, the ability to take the thirty minute uninterrupted  
 28 meal break (or a ten minute rest break) often proved impossible.

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1       25. As a Service Manager, regardless of what restaurant location they worked in, their  
 2       duties were very similar. These duties included the interviewing and hiring of bussers and servers,  
 3       working the dining room to ensure that all customers were happy with the level of service they were  
 4       receiving, preparing employee performance reviews, disciplining employees for not following  
 5       corporate policy when necessary, ensuring that the restaurant was clean and sanitized in all areas,  
 6       checking the quality of food and ensure that proper food handling safety precautions were followed,  
 7       and balancing the safe and preparing daily deposits. Besides the regular managerial duties, Service  
 8       Managers were also expected to seat, wait on and serve guests, clear tables and clean the restaurant,  
 9       kitchen and bar areas, cook and/or prepare food or beverages, and even wash dishes.

10       26. Just like Beverage and Hospitality Managers, Service Managers also were required  
 11       to clock in and out for their breaks although the reality was those breaks were hardly ever taken.

12       27. Plaintiff STRAYER was employed as a Culinary Manager at DRI'S RL location in  
 13       Oxnard, California. As the Culinary Manager, STRAYER was required to work at least fifty (50)  
 14       hours each week. Her primary duties as a Culinary Manager included managing the kitchen staff,  
 15       ensure proper inventory and supply in the kitchen, check all daily reports on sales, and train staff  
 16       to follow proper RL food recipes. Moreover, just like all of the other Managers, STRAYER was  
 17       responsible for making sure that all customers were treated properly. This included seating  
 18       customers, waiting on tables, delivering orders, cooking and cleaning.

19       28. Just like the other Managers (not General Managers), STRAYER as the Culinary  
 20       Manager was required to clock in and out for her breaks, although in reality, she hardly ever took  
 21       a proper uninterrupted rest or meal break. Since it was corporate policy for managers to clock in  
 22       and out for all breaks, and in reality breaks were hardly ever taken, STRAYER, like all other  
 23       managers (regardless of what specific management title they held - except for General Managers),  
 24       would at the end of the day edit her time card so that she would not be written up later for a "break  
 25       violation," which often happened for managers. It was regular custom and practice for all managers  
 26       to edit their time cards to avoid being written up or to have to explain how busy the restaurant had  
 27       been to the District Manager.

28       29. In order for any of the Managers identified in this action to take a break, another

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1 manager had to be present to watch over the restaurant. In reality, it was infrequent that a second  
 2 manager would be present to cover the shift of the manager on break. Moreover, when a manager  
 3 was able to take a thirty minute meal break, that break often took place in the bar area so that they  
 4 could watch over the restaurant and respond to anything that was needed in case of an emergency.  
 5 Collectively due to how DRI'S operated its RL restaurants in California, Plaintiffs rarely were ever  
 6 given the opportunity to take either an uninterrupted ten minute rest break or thirty minute meal  
 7 break.

8 **FIRST CLAIM OF RELIEF**

9 **(Unpaid Minimum Wages Pursuant to Labor Code Section 1194  
 and Wage Order 5-2001)**

10 30. Plaintiff realleges and incorporates herein by reference each and every allegation  
 11 contained in Paragraphs 1 through 29, inclusive, of this Complaint as though fully set forth herein.

12 31. This action is brought pursuant to California Labor Code Section 1194 which  
 13 provides for an employee to recover in a civil action the unpaid balance of the full amount of  
 14 minimum wage compensation due, including interest thereon, attorneys' fees and costs.

15 32. This action is also brought pursuant to Section 4 ("Minimum Wages") of the Wage  
 16 Order 5-2001. Subpart B of Section 4 specifically states, "Every employer shall pay to each  
 17 employee, on the established payday for the period involved, not less than the applicable minimum  
 18 wage for all hours worked in the payroll period, whether the remuneration is measured by time,  
 19 piece, commission, or otherwise."

20 33. Plaintiffs CACERES and DUNN and other members of the Class (collectively the  
 21 "Minimum Wage Class Members") are or were employees of Defendants in the State of California  
 22 and Defendants were and are an employer employing persons in the State of California. As such,  
 23 the Class Members were the type of persons contemplated to be protected by the Labor Code and  
 24 Wage Orders and said regulations were intended to apply to Defendants and to prevent the type of  
 25 injury and damage herein.

26 34. Class Members were required to travel during numerous times throughout the year  
 27 to attend various training conferences, seminars, and other management meetings wherein they were

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1 required to attend these events and travel to and from them on their off time, meaning Defendant  
 2 did not compensate them for attending these events.

3 35. Labor Code Section 1194.2 states, "In any action under Section 1193.6 or Section  
 4 1194 to recover wages because of the payment of a wage less than the minimum wage fixed by an  
 5 order of the commission, an employee shall be entitled to recover liquidated damages in an amount  
 6 equal to the wages unlawfully unpaid and interest thereon."

7 36. The failure of DRI to pay the Minimum Wage Class Members minimum wage for  
 8 all hours worked violates both the Labor Code and the Wage Orders. Consequently, the Minimum  
 9 Wage Class Members were not paid in compliance with California law. As a direct and proximate  
 10 result of DRI's conduct as herein above alleged, Plaintiffs CACERES, DUNN and Class Members  
 11 have sustained and will continue to sustain damages in an amount in excess of Five Million Dollars  
 12 (\$5,000,000.00) of unpaid minimum wage premiums, together with interest thereon and attorney  
 13 fees and costs of the suit.

14 **SECOND CLAIM OF RELIEF**

15 **(Unpaid Meal and Break Periods pursuant to Wage Order S-2001  
 16 and California Labor Code §226.7)**

17 37. Plaintiffs reallege and incorporate herein by reference each and every allegation  
 18 contained in Paragraphs 1 through 29, and 31 through 36, inclusive, of this Complaint as though  
 19 fully set forth herein.

20 38. Section 11 of Wage Order S-2001, specifically reads:

21 "Meal Periods.

22 A. No employer shall employ any person for a work period of  
 23 more than five (5) hours without a meal period of not less than 30  
 24 minutes, except that when a work period of not more than six (6)  
 25 hours will complete the day's work the meal period may be waived  
 26 by mutual consent of the employer and employee. Unless the  
 27 employee is relieved of all duty during a 30 minute meal period, the  
 28 meal period shall be considered an "on duty" meal period and

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1 counted as time worked. An "on duty" meal period shall be  
 2 permitted only when the nature of the work prevents an employee of  
 3 being relieved of all duty and when by written agreement between  
 4 the parties and on-the-job paid meal period is agreed to. The written  
 5 agreement shall state that the employee may, in writing, revoke the  
 6 agreement at any time.

7 B. If an employer fails to provide an employee a meal period in  
 8 accordance with the applicable provisions of this order, the employer  
 9 shall pay the employee one (1) hour of pay at the employee's regular  
 10 rate of compensation for each workday that the meal period is not  
 11 provided.

12 C. In all places of employment where employees are required to  
 13 eat on the premises, a suitable place for that purpose shall be  
 14 designated."

15 39. Section 12 of Wage Order 5-2001 specifically states:  
 16 "Rest Periods.

17 A. Every employer shall authorize and permit all employees to  
 18 take rest periods, which insofar as practicable shall be in the middle  
 19 of each work period. The authorized rest period time shall be based  
 20 on the total hours worked daily at the rate of ten (10) minutes net rest  
 21 time per four (4) hours or major fraction thereof. However, a rest  
 22 period need not be authorized for employees whose total daily work  
 23 time is less than three and one-half (3½) hours. Authorized rest  
 24 period time shall be counted as hours worked for which there shall  
 25 be no deduction from wages.

26 B. If an employer fails to provide an employee a rest period in  
 27 accordance with the applicable provisions of this order, the employer  
 28 shall pay the employee one (1) hour of pay at the employee's regular

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rate of compensation for each workday that the rest period is not provided."

40. *California Labor Code Section 226.7 states:*

- A. No employer shall require any employee to work during any meal or rest period mandated by an applicable order of the Industrial Welfare Commission.
- B. If an employer fails to provide an employee a meal period or rest period in accordance with an applicable order of the Industrial Welfare Commission, the employer shall pay the employee one additional hour of pay at the employee's regular rate of compensation for each work day that the meal or rest period is not provided.

41. Plaintiffs and the other Class Members, are or were employees of DRI who worked in the State of California at DRI'S RL restaurants and DRI was and is an employer employing persons in the State of California. As such, the Class Members were the type of persons contemplated to be protected by Wage Orders and *Labor Code* and said law and regulations were intended to apply to DRI and to prevent the type of injury and damage herein.

42. Plaintiffs and other Class Members were frequently prohibited from taking their ten minute uninterrupted rest breaks for every four hours worked as well as their uninterrupted 30 minute meal breaks. Often the work required by DRI prohibited Plaintiffs and the other Class Members from taking breaks through a 12 hour work day.

43. The failure of DRI to allow the Class Members the opportunities to take the required rest periods and meal breaks violates the Wage Orders and *Labor Code*. Consequently, DRI was not in compliance with California law. As a direct and proximate result of DRI'S conduct as herein above alleged, Plaintiffs and Class Members have sustained and will continue to sustain damages in an amount in excess of Seven Million Dollars (\$7,000,000.00) of unpaid premiums, together with interest thereon and attorney fees and costs of the suit.

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1 acts of the other directors, officers, employees and/or agents as set forth in Business & Professions  
 2 Code §17095.

3 52. DRI, through its RL restaurants, creates, prepares, sells and serves seafood based  
 4 meals throughout California. This provides service to the public as defined in Business &  
 5 Professions Code §§17022 and 17024.

6 53. Plaintiffs are informed and believe, and based thereon allege, that DRI has  
 7 intentionally and improperly required the Class Members to perform tasks, including, but not  
 8 limited to working without proper meal and rest breaks for the period of July 2004 to the present.

9 54. Plaintiffs are informed and believe, and based thereon allege, that DRI has under-  
 10 reported to federal and state authorities wages earned by the Class Members and, therefore, has  
 11 underpaid state and federal taxes, employer matching funds, unemployment premiums, Social  
 12 Security, Medicare, and Workers' Compensation premiums. The aforesaid conduct is criminal in  
 13 nature and subjects DRI to sanctions, fines and imprisonment, and is actionable under Business &  
 14 Professions Code §§17000 et seq., and 17200 et seq.

15 55. Plaintiffs are informed and believe, and based thereon allege, that by failing to  
 16 provide compensation for all hours worked and proper rest and meal breaks for Class Members for  
 17 the time period of July 2004 to the present was intentional.

18 56. Pursuant to Business & Professions Code §§17071 and 17075, the failure of DRI to  
 19 properly pay unpaid wages, related benefits, and employment taxes, is admissible as evidence of  
 20 DRI'S intent to violate Chapter 4 of the Unfair Business Trade Act.

21 57. Plaintiffs are informed and believe, and based thereon allege, that DRI has instructed  
 22 and directed its directors, officers, employees, and/or agents to intentionally and unlawfully avoid  
 23 payment of wages due for all hours worked, in order to take advantage over DRI'S competitors in  
 24 violation of Business & Professions Code §17043, including and without limitation:

- 25 a. Class Members were required to work not just eight (8) hours in one work  
 26 day or forty (40) hours in one work week, but were required to work as long  
 27 as necessary to complete their jobs without breaks;
- 28 b. Class Members were required to perform work and attend training.

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THIRD CLAIM OF RELIEF(Violation of Labor Code 5203 (§203 Subclass))

44. Plaintiffs reallege and incorporate herein by reference each and every allegation contained in Paragraphs 1 through 29, 31 through 36, and 38 through 43, inclusive, of this Complaint as though fully set forth herein.

45. Plaintiffs and the Section 203 Sub-Class of employees whose employment with DRI has been terminated at any time since July 15, 2004 were, at all times, during their employment with DRI, entitled to wages for all hours worked but unpaid, including, but not limited to, all missed meal and rest breaks.

46. More than 30 days have passed since Plaintiffs and the other members of the Section 203 Sub-Class quit or were discharged from their positions with DRI.

47. As a consequence of DRI's willful failure to pay the Section 203 Sub-Class members for all hours worked but unpaid, including, but not limited to all missed meal and rest breaks, the Section 203 Sub-Class members are entitled to thirty days wages as penalty damages in excess of Five Million Dollars (\$5,000,000.00) pursuant to Labor Code, Section 203.

FOURTH CAUSE OF ACTION(Unfair Business Practices, Business & Professions Code, §17000, et seq.)

48. Plaintiffs reallege and incorporate herein by reference each and every allegation contained in Paragraphs 1 through 29, 31 through 36, 38 through 43, and 45 through 47, inclusive, of this Complaint as though fully set forth herein.

49. The Unfair Trade Practices Act defines unfair competition to include any "unfair," "unlawful," or "deceptive" business practice. The Unfair Trade Practices Act provides for injunctive and restitutionary relief for violations. The failure to compensate the Class Members for all time worked, including, but not limited to, compensation for missed meal and rest breaks, is an unfair business practice as defined by the Unfair Practices Act.

50. Defendants, and each of them, are "persons" as defined under Business & Professions Code §17021.

51. Each of the directors, officers, and/or agents of DRI are equally responsible for the

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1 management and other meetings throughout the country while not receiving  
 2 compensation for their actions; and

3 c. Plaintiffs are informed and believe, and based thereon alleges, that DRI was  
 4 able to compete unfairly with other chain type restaurants in the State of  
 5 California by not properly providing its employees wages for all hours  
 6 worked and meal and rest breaks in violation of Business & Professions  
 7 Code, Chapter 4 and 5, *et seq.*

8 58. The victims of this unfair business practice include, but are not limited to, the Class  
 9 Members, competing businesses in the State of California, and the general public.

10 59. Plaintiffs are informed and believe, and based thereon allege, that DRI performed  
 11 the above-mentioned acts with the intent of gaining an unfair competitive advantage, thereby  
 12 injuring Plaintiffs, employees, other competitors, and the general public.

13 60. Plaintiffs are informed and believe, and based thereon allege, that DRI by  
 14 committing the above-described acts, has deceived the public by illegally depriving its employees  
 15 of wages, thus injuring its employees who are members of the community.

16 61. The failure to properly pay wages is a crime punishable by both a statutory fine and  
 17 imprisonment for each violation pursuant to Business & Professions Code §17100, and other  
 18 statutes. The acts constitute a continuing and ongoing unlawful activity prohibited by Business &  
 19 Professions Code §§17000, *et seq.*, and 17200, *et seq.*, and justify the issuance of an injunction.  
 20 All remedies are cumulative pursuant to Business & Professions Code §17205.

21 62. Pursuant to Business & Professions Code §17082, Plaintiffs, on behalf of themselves  
 22 and all other Class Members, request three (3) times the amount of the Class Members' damages  
 23 resulting from each of DRI'S violations of Chapter 4 of the Unfair Trade Practices Act.

24 63. Pursuant to Business & Professions Code §§17200 and 17203, Plaintiffs and  
 25 members of the general public are entitled to restitution of all funds wrongfully not paid by DRI to  
 26 the Class Members, together with interest, penalties, attorney fees and costs. Plaintiffs are also  
 27 entitled to an injunction prohibiting DRI from requiring its employees to work without proper  
 28 compensation and rest and meal breaks.

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1 **PRAYER FOR RELIEF**

2 WHEREFORE, Plaintiff and Class and Sub-Class Members pray for judgment as follows:

3 1. For unpaid minimum wage compensation in an amount in excess of five million  
4 dollars (\$5,000,000.00), together with interest thereon;

5 2. For liquidated damages pursuant to Labor Code Section 1194.2;

6 3. For unpaid meal and rest break premiums in an amount in excess of seven million  
7 dollars (\$7,000,000.00), together with interest thereon;

8 4. For waiting-time penalties under *Labor Code* § 203 for all Class Members during  
9 the applicable limitations period in excess of five million dollars (\$5,000,000.00),  
10 together with interest thereon;

11 5. For treble damages pursuant to the Unfair Practices Act;

12 6. For attorney fees, expenses and costs pursuant to Labor Code, Section 1194;

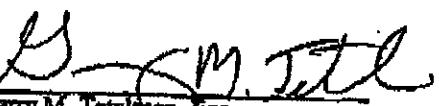
13 7. For an injunction prohibiting DRI from requiring its California employees to spend  
14 time performing tasks for which they are not paid;

15 8. For such other and further relief as the Court deems just and proper; and

16 9. For a jury trial.

17  
18 THE LAW OFFICE OF GARRY M. TETALMAN  
19

20  
21 DATED: July 18, 2008

22 By: 

23 Garry M. Tetalman, Esq.  
Attorneys for Plaintiffs

24  
25 THE LAW OFFICE OF LAUREN JOHN UDDEN

26  
27 DATED: July 18, 2008

28 By: 

Lauren John Udden, Esq.  
Attorneys for Plaintiffs

**PROOF OF SERVICE BY UNITED STATES MAIL**

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California; I am over the age of 18 years and not a party to this action. My business address is 633 West Fifth Street, 53rd Floor, Los Angeles, California 90071.

On October 17, 2008, I served the following document(s) described as:

**DEFENDANT'S NOTICE OF REMOVAL OF CIVIL ACTION TO  
FEDERAL COURT PURSUANT TO 28 U.S.C. §§ 1332, 1441, 1446, AND 1453**

on the persons below as follows:

9 Garry M. Tetelman  
10 The Law Office of Garry M. Tetelman  
11 15 W. Camarillo Street, Suite 209  
Santa Barbara, California 93101

12 Lauren J. Udden  
13 The Law Office of Lauren J. Udden  
15 W. Camarillo Street, Suite 209  
Santa Barbara, California 93101

14 I enclosed the documents in a sealed envelope or package addressed to the  
15 persons at the addresses as indicated above and:

16  deposited the sealed envelope or package with the United States Postal  
17 Service, with the postage fully prepaid.

18  placed the envelope or package for collection and mailing, following our  
19 ordinary business practices. I am readily familiar with this business's practice  
20 for collecting and processing correspondence for mailing. On the same day  
that correspondence is placed for collection and mailing, it is deposited in the  
ordinary course of business with the United State Postal Service, in a sealed  
envelope or package with postage fully prepaid.

I am employed in the county where the mailing occurred. The envelope or package was placed in the mail at Los Angeles, California.

23  (Federal) I declare that I am employed in the office of a member of the Bar  
24 of this Court at whose direction the service was made. I declare  
under penalty of perjury under the laws of the United States of  
America that the above is true and correct.

Executed on October 17, 2008, at Los Angeles, California

Miltonette Steinberg  
Type Name

Millonette Hershey  
Signature

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA  
CIVIL COVER SHEETI (a) PLAINTIFFS (Check box if you are representing yourself )

JESUS ALBERTO CACERES; CYNTHIA STRAYER; MELIDA NOVOA; LAURIE COX; ALLISON CARROLL; ELIAH LEFFERTS; TONY DUNN; for themselves and on behalf of all others similarly situated

## DEFENDANTS

DARDEN RESTAURANTS, INC., A Florida corporation, doing business in California as RED LOBSTER, and DOES 1 through 52

## (b) Attorneys (Firm Name, Address and Telephone Number. If you are representing yourself, provide same.)

Garry M. Tetalman, SBN 204189  
The Law Office of Garry M. Tetalman, Tel: 805.879.7518  
Lauren J. Udden, SBN 083118  
The Law Office of Lauren J. Udden, Tel: 805.879.7544  
15 W. Carrillo Street, Suite 209  
Santa Barbara, California 93101

## Attorneys (If Known)

Jack S. Sholkoff, SBN 145097  
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OGLEETREE, DEAKINS, NASH, SMOAK & STEWART, P.C.  
633 W. Fifth Street, Suite 5300  
Los Angeles, California 90071  
Tel: 213.239.9800; Fax 213.239.9045

## II. BASIS OF JURISDICTION (Place an X in one box only.)

1 U.S. Government Plaintiff  3 Federal Question (U.S. Government Not a Party)  
 2 U.S. Government Defendant  4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES - For Diversity Cases Only  
(Place an X in one box for plaintiff and one for defendant.)

Citizen of This State	<input checked="" data-bbox="942 578 967 599" type="checkbox"/> PTF	<input data-bbox="983 578 1008 599" type="checkbox"/> DEF	Incorporated or Principal Place of Business in this State	<input data-bbox="1406 578 1431 599" type="checkbox"/> PTF	<input data-bbox="1448 578 1473 599" type="checkbox"/> DEF
Citizen of Another State	<input data-bbox="942 652 967 673" type="checkbox"/> 2	<input data-bbox="983 652 1008 673" type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State	<input data-bbox="1406 652 1431 673" type="checkbox"/> 5	<input checked="" data-bbox="1448 652 1473 673" type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input data-bbox="942 705 967 726" type="checkbox"/> 3	<input data-bbox="983 705 1008 726" type="checkbox"/> 3	Foreign Nation	<input data-bbox="1406 705 1431 726" type="checkbox"/> 6	<input data-bbox="1448 705 1473 726" type="checkbox"/> 6

## IV. ORIGIN (Place an X in one box only.)

1 Original  2 Removed from  3 Remanded from  4 Reinstated or  5 Transferred from another district  (specify):  6 Multi-District Litigation  7 Appeal to District Judge from Magistrate Judge  
Proceeding State Court Appellate Court Reopened

V. REQUESTED IN COMPLAINT: JURY DEMAND:  Yes  No (Check 'Yes' only if demanded in complaint.)CLASS ACTION under F.R.C.P. 23:  Yes  No MONEY DEMANDED IN COMPLAINT: \$ In excess of 17,000,000.00

## VI. CAUSE OF ACTION (Cite the U.S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.)

28 U.S.C. Sections 1332, 1441, 1446, and 1453 (The Class Action Fairness Act); Plaintiffs filed complaint alleging wage and hour class action, including claims for unpaid minimum wages pursuant to Labor Code section 1194, unpaid meal and break periods pursuant to Labor Code section 226.7, violation of Labor Code section 203, and unfair business practices.

## VII. NATURE OF SUIT (Place an X in one box only.)

OTHER STATUTES	CONTRACT	TORTS	TORTS	PRISONER PETITIONS	LABOR
<input data-bbox="58 1178 174 1199" type="checkbox"/> 400 State Reapportionment	<input data-bbox="340 1184 456 1205" type="checkbox"/> 110 Insurance	<input data-bbox="588 1184 705 1205" type="checkbox"/> 310 Airplane	<input data-bbox="920 1184 1036 1205" type="checkbox"/> 370 Other Fraud	<input data-bbox="1252 1184 1368 1205" type="checkbox"/> 510 Motions to Vacate Sentence	<input data-bbox="1401 1184 1517 1205" type="checkbox"/> 710 Fair Labor Standards Act
<input data-bbox="58 1205 174 1227" type="checkbox"/> 410 Antitrust	<input data-bbox="340 1205 456 1227" type="checkbox"/> 120 Marine	<input data-bbox="588 1205 705 1227" type="checkbox"/> 315 Airplane Product Liability	<input data-bbox="920 1205 1036 1227" type="checkbox"/> 371 Truth in Lending	<input data-bbox="1252 1205 1368 1227" type="checkbox"/> 520 Labor/Mgmt. Relations	<input data-bbox="1401 1205 1517 1227" type="checkbox"/> 720 Labor/Mgmt. Relations
<input data-bbox="58 1227 174 1248" type="checkbox"/> 430 Banks and Banking	<input data-bbox="340 1227 456 1248" type="checkbox"/> 130 Miller Act	<input data-bbox="588 1227 705 1248" type="checkbox"/> 320 Assault, Libel & Slander	<input data-bbox="920 1227 1036 1248" type="checkbox"/> 380 Other Personal Property Damage	<input data-bbox="1252 1227 1368 1248" type="checkbox"/> 530 General	<input data-bbox="1401 1227 1517 1248" type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act
<input data-bbox="58 1248 174 1269" type="checkbox"/> 450 Commerce/ICC Rates/etc.	<input data-bbox="340 1248 456 1269" type="checkbox"/> 140 Negotiable Instrument	<input data-bbox="588 1248 705 1269" type="checkbox"/> 330 Fed. Employers' Liability	<input data-bbox="920 1248 1036 1269" type="checkbox"/> 385 Property Damage Product Liability	<input data-bbox="1252 1248 1368 1269" type="checkbox"/> 540 Mandamus/ Other	<input data-bbox="1401 1248 1517 1269" type="checkbox"/> 740 Railway Labor Act
<input data-bbox="58 1269 174 1290" type="checkbox"/> 460 Deportation	<input data-bbox="340 1269 456 1290" type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input data-bbox="588 1269 705 1290" type="checkbox"/> 340 Marine	<input data-bbox="920 1269 1036 1290" type="checkbox"/> 422 Appeal 28 USC 158	<input data-bbox="1252 1269 1368 1290" type="checkbox"/> 550 Civil Rights	<input checked="" data-bbox="1401 1269 1517 1290" type="checkbox"/> 790 Other Labor Litigation
<input data-bbox="58 1290 174 1311" type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations	<input data-bbox="340 1290 456 1311" type="checkbox"/> 151 Medicare Act	<input data-bbox="588 1290 705 1311" type="checkbox"/> 345 Marine Product Liability	<input data-bbox="920 1290 1036 1311" type="checkbox"/> 423 Withdrawal 28 USC 157	<input data-bbox="1252 1290 1368 1311" type="checkbox"/> 555 Prison Condition	<input data-bbox="1401 1290 1517 1311" type="checkbox"/> 791 Empl. Ret. Inc. Security Act
<input data-bbox="58 1311 174 1332" type="checkbox"/> 480 Consumer Credit	<input data-bbox="340 1311 456 1332" type="checkbox"/> 152 Recovery of Defaulted Student Loan (Excl. Veterans)	<input data-bbox="588 1311 705 1332" type="checkbox"/> 350 Motor Vehicle	<input data-bbox="920 1311 1036 1332" type="checkbox"/> 441 Voting	<input data-bbox="1252 1311 1368 1332" type="checkbox"/> 610 Agriculture	<input data-bbox="1401 1311 1517 1332" type="checkbox"/> 820 Copyrights
<input data-bbox="58 1332 174 1353" type="checkbox"/> 490 Cable/Sat TV	<input data-bbox="340 1332 456 1353" type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input data-bbox="588 1332 705 1353" type="checkbox"/> 355 Motor Vehicle Product Liability	<input data-bbox="920 1332 1036 1353" type="checkbox"/> 442 Employment	<input data-bbox="1252 1332 1368 1353" type="checkbox"/> 620 Other Food & Drug	<input data-bbox="1401 1332 1517 1353" type="checkbox"/> 830 Patent
<input data-bbox="58 1353 174 1374" type="checkbox"/> 810 Selective Service	<input data-bbox="340 1353 456 1374" type="checkbox"/> 160 Stockholders' Suits	<input data-bbox="588 1353 705 1374" type="checkbox"/> 360 Other Personal Injury	<input data-bbox="920 1353 1036 1374" type="checkbox"/> 443 Housing/Accommodations	<input data-bbox="1252 1353 1368 1374" type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881	<input data-bbox="1401 1353 1517 1374" type="checkbox"/> 840 Trademark
<input data-bbox="58 1374 174 1396" type="checkbox"/> 850 Securities/Commodities/ Exchange	<input data-bbox="340 1374 456 1396" type="checkbox"/> 190 Other Contract	<input data-bbox="588 1374 705 1396" type="checkbox"/> 362 Personal Injury-Med Malpractice	<input data-bbox="920 1374 1036 1396" type="checkbox"/> 444 Welfare	<input data-bbox="1252 1374 1368 1396" type="checkbox"/> 630 Liquor Laws	<input data-bbox="1401 1374 1517 1396" type="checkbox"/> 861 HIA (1395ff)
<input data-bbox="58 1396 174 1417" type="checkbox"/> 875 Customer Challenge 12 USC 3410	<input data-bbox="340 1396 456 1417" type="checkbox"/> 195 Contract Product Liability	<input data-bbox="588 1396 705 1417" type="checkbox"/> 365 Personal Injury-Product Liability	<input data-bbox="920 1396 1036 1417" type="checkbox"/> 445 American with Disabilities - Employment	<input data-bbox="1252 1396 1368 1417" type="checkbox"/> 640 R.R. & Truck	<input data-bbox="1401 1396 1517 1417" type="checkbox"/> 862 Black Lung (923)
<input data-bbox="58 1417 174 1438" type="checkbox"/> 890 Other Statutory Actions	<input data-bbox="340 1417 456 1438" type="checkbox"/> 196 Franchise	<input data-bbox="588 1417 705 1438" type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input data-bbox="920 1417 1036 1438" type="checkbox"/> 446 American with Disabilities - Other	<input data-bbox="1252 1417 1368 1438" type="checkbox"/> 650 Airline Regs	<input data-bbox="1401 1417 1517 1438" type="checkbox"/> 863 DIWC/DIWW (405(g))
<input data-bbox="58 1438 174 1459" type="checkbox"/> 891 Agricultural Act	<input data-bbox="340 1438 456 1459" type="checkbox"/> 210 Land Condemnation	<input data-bbox="588 1438 705 1459" type="checkbox"/> 462 Naturalization Application	<input data-bbox="920 1438 1036 1459" type="checkbox"/> 447 American with Disabilities - Other	<input data-bbox="1252 1438 1368 1459" type="checkbox"/> 660 Occupational Safety/Health	<input data-bbox="1401 1438 1517 1459" type="checkbox"/> 864 SSID Title XVI
<input data-bbox="58 1459 174 1480" type="checkbox"/> 892 Economic Stabilization Act	<input data-bbox="340 1459 456 1480" type="checkbox"/> 220 Foreclosure	<input data-bbox="588 1459 705 1480" type="checkbox"/> 463 Habeas Corpus-Alien Detainee	<input data-bbox="920 1459 1036 1480" type="checkbox"/> 448 Other Civil Rights	<input data-bbox="1252 1459 1368 1480" type="checkbox"/> 690 Other	<input data-bbox="1401 1459 1517 1480" type="checkbox"/> 865 RSI (405(g))
<input data-bbox="58 1480 174 1501" type="checkbox"/> 893 Environmental Matters	<input data-bbox="340 1480 456 1501" type="checkbox"/> 230 Rent Lease & Ejectment	<input data-bbox="588 1480 705 1501" type="checkbox"/> 465 Other Immigration Actions			<input data-bbox="1401 1480 1517 1501" type="checkbox"/> 871 IRS - Third Party
<input data-bbox="58 1501 174 1522" type="checkbox"/> 894 Energy Allocation Act	<input data-bbox="340 1501 456 1522" type="checkbox"/> 240 Torts to Land				<input data-bbox="1401 1501 1517 1522" type="checkbox"/> 26 USC 7609
<input data-bbox="58 1522 174 1543" type="checkbox"/> 895 Freedom of Info. Act	<input data-bbox="340 1522 456 1543" type="checkbox"/> 245 Tort Product Liability				
<input data-bbox="58 1543 174 1564" type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice	<input data-bbox="340 1543 456 1564" type="checkbox"/> 290 All Other Real Property				
<input data-bbox="58 1564 174 1586" type="checkbox"/> 950 Constitutionality of State Statutes					

FOR OFFICE USE ONLY: Case Number:

AFTER COMPLETING THE FRONT SIDE OF FORM CV-71, COMPLETE THE INFORMATION REQUESTED BELOW.

CV 08-06840

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA  
CIVIL COVER SHEET

VIII(a). IDENTICAL CASES: Has this action been previously filed in this court and dismissed, remanded or closed?  No  Yes  
If yes, list case number(s): \_\_\_\_\_

VIII(b). RELATED CASES: Have any cases been previously filed in this court that are related to the present case?  No  Yes  
If yes, list case number(s): \_\_\_\_\_

Civil cases are deemed related if a previously filed case and the present case:

(Check all boxes that apply)

- A. Arise from the same or closely related transactions, happenings, or events; or
- B. Call for determination of the same or substantially related or similar questions of law and fact; or
- C. For other reasons would entail substantial duplication of labor if heard by different judges; or
- D. Involve the same patent, trademark or copyright, and one of the factors identified above in a, b or c also is present.

IX. VENUE: (When completing the following information, use an additional sheet if necessary.)

(a) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which EACH named plaintiff resides.  
 Check here if the government, its agencies or employees is a named plaintiff. If this box is checked, go to item (b).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
All named plaintiffs residing in California reside in Ventura County.	One named plaintiff resides in Arizona.

(b) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which EACH named defendant resides.  
 Check here if the government, its agencies or employees is a named defendant. If this box is checked, go to item (c).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Florida	

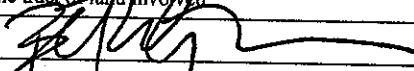
(c) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which EACH claim arose.  
Note: In land condemnation cases, use the location of the tract of land involved.

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Ventura County and potentially other California counties.	

\* Los Angeles, Orange, San Bernardino, Riverside, Ventura, Santa Barbara, or San Luis Obispo Counties

Note: In land condemnation cases, use the location of the tract of land involved.

X. SIGNATURE OF ATTORNEY (OR PRO PER):

  
Attorney for Defendant Darden Restaurants, Inc.

Date October 17, 2008

Notice to Counsel/Parties: The CV-71 (JS-44) Civil Cover Sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3-1 is not filed but is used by the Clerk of the Court for the purpose of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet.)

Key to Statistical codes relating to Social Security Cases:

Nature of Suit Code	Abbreviation	Substantive Statement of Cause of Action
861	HIA	All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b))
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923)
863	DIWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405(g))
863	DIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405(g))
864	SSID	All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended.
865	RSI	All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. (g))

**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

**NOTICE OF ASSIGNMENT TO UNITED STATES MAGISTRATE JUDGE FOR DISCOVERY**

This case has been assigned to District Judge J. Spencer Letts and the assigned discovery Magistrate Judge is Alicia G. Rosenberg.

The case number on all documents filed with the Court should read as follows:

**CV08- 6840 JSR (AGRx)**

Pursuant to General Order 05-07 of the United States District Court for the Central District of California, the Magistrate Judge has been designated to hear discovery related motions.

The United States District Judge assigned to this case will review all filed discovery motions and thereafter, on a case-by-case or motion-by-motion basis, may refer discovery related motions to the Magistrate Judge for hearing and determination

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**NOTICE TO COUNSEL**

*A copy of this notice must be served with the summons and complaint on all defendants (if a removal action is filed, a copy of this notice must be served on all plaintiffs).*

Subsequent documents must be filed at the following location:

**Western Division**  
312 N. Spring St., Rm. G-8  
Los Angeles, CA 90012

**Southern Division**  
411 West Fourth St., Rm. 1-053  
Santa Ana, CA 92701-4516

**Eastern Division**  
3470 Twelfth St., Rm. 134  
Riverside, CA 92501

Failure to file at the proper location will result in your documents being returned to you.